IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5962 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VASANTRAI M CHAUHAN - Petitioner(s)
Versus
PRESIDENT & 3 - Respondent(s)

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Appearance :

MR YV SHAH for Petitioner(s) : 1,
MR SUNIL C PATEL for Respondent(s) : 1,
Mr. Maulik Nanavati, Asst. GOVERNMENT PLEADER for Respondent(s) : 2,
NOTICE SERVED BY DS for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 20/12/2006

ORAL JUDGMENT

By way of this Special Civil Application under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, order or direction quashing and setting

aside the impugned order of reverting the petitioner from the post of Direct Tax Superintendent to the post of Sanitary Sub-Inspector.

2. It appears from the record that pursuant to some resolution passed by the Valsad Nagarpalika the petitioner was promoted to the post of Direct Tax Superintendent which was the subject matter of appeal before the Collector, Valsad under Section 258 of the Gujarat Municipalities Act. The Collector, Valsad, set aside the resolution by which the petitioner was promoted to the post of Direct Tax Superintendent and accordingly the petitioner was reverted to the post of Sanitary Sub-Inspector. Being aggrieved and dissatisfied with the said order, the petitioner has preferred the present Special Civil Application making a grievance that the impugned order has been passed by the Collector,

Valsad without giving opportunity to the petitioner.

3. It is not in dispute that before passing the order the petitioner was not heard. Under the circumstances, without entering into the merits of the case the impugned order passed by the Collector, Valsad dated 10th September 1996 in Case No. 17 of 1996 is hereby quashed and set aside and the matter is remanded to the Collector, Valsad for passing appropriate order in accordance with law and on merits after giving opportunity to the petitioner as well as to other affected parties who were beneficiaries of Resolution No. 201 dated 7th October 1995. The said exercise be completed before 28th February 2007 and communicate the outcome thereof to the respective parties. Till then, the parties are directed to maintain status-quo. It is, however, observed that this Court has not expressed anything on merits of the case and the impugned

order is quashed and set aside only on the ground that the same is against the principles of natural justice. It is ultimately for the Collector, Valsad to pass appropriate order in accordance with law and on merits considering the submissions that may be made on behalf of the parties. Rule is made absolute to the above extent with no order as to costs.

[M.R. Shah, J.]

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